

APPENDIX D

January 30, 1998

MEMORANDUM

SUBJECT: Interim Guidance on Cost Sharing/Matching Requirements on the Award of Grants to Indian tribes Under Section 106 of the Clean Water Act for FY 1998.

FROM: Michael B. Cook, Director \s\
Office of Wastewater Management

TO: Water Management Division Directors
Regions I-II, IV-X

PURPOSE:

This guidance provides the framework for implementing a new Maximum Federal Share (5 percent match) requirement for the Tribal Section 106 grant program, and should be implemented in accordance with the previously issued policy statements in Bob Perciasepe's memorandum of September 29, 1997. The new Maximum Federal Share (5 percent match) requirement and the revised Tribal Section 106 allocation formula will be applied beginning with the FY 98 appropriation, which includes a significant increase in Tribal 106 funds of \$9 million over FY 97 funds, for a total of \$14.8 million.

A Maximum Federal Share requirement affirms Tribal commitment to implementing water quality programs on Tribal lands. As such, the Tribes are being asked to commit, as appropriate, to participating as full partners in the development of these programs. This match requirement will allow EPA to demonstrate to Congress and all parties, that Tribal/EPA partnerships are based on a joint commitment to using the Section 106 program to effectively address Tribal water quality concerns.

The Regional Administrator may increase the Maximum Federal Share up to 100 percent upon application and demonstration by an eligible Tribe or Tribal Consortium that it does not have adequate funds (including federal funds authorized by statute for matching purposes, tribal funds, or in-kind contributions) to meet the required match.

The match is set at a level that many Tribes are able to achieve. However, we recognize that some Tribes will not be able to meet the match requirement with either Federal funds authorized by statute for matching purposes or with Tribal funds. Therefore, EPA will welcome Tribal in-kind contributions toward this match.

This guidance on in-kind contributions is summarized from, and should be used in conjunction with, 40 CFR Part 31, General Grant Regulation.

Interim Guidance for Section 106 Tribal Cost Sharing/Matching

Tribal Cost Sharing/Matching

Tribal Cost sharing/matching for Section 106 grants may be provided from Federal funds authorized by statute for matching purposes, Tribal funds, or Tribal in-kind contributions. Tribes are encouraged to provide in-kind contributions to satisfy the cost sharing/matching requirement. In-kind contributions, including cash, services, property, supplies, equipment, and third party contributions of goods or services are acceptable as cost sharing/matching when such contributions meet all of the following criteria:

- 1) Are verifiable from the Tribe's records
- 2) Are not included as cost sharing/matching contributions for any other federally-assisted project or program
- 3) Are necessary and reasonable for proper and efficient accomplishment of the activities delineated in the grant work plan
- 4) Are allowable under the applicable cost principles
- 5) Are not paid for by the Federal Government under another award, except where authorized by Federal statute for cost sharing/matching
- 6) Are identified in the approved grant budget
- 7) Conform to other provisions of OMB Circular 110, as applicable.

Values for contributions of services and property shall be established in accordance with the applicable cost principles.

Unrecovered indirect costs may be included as part of cost sharing/matching only with the prior approval of EPA. Unrecovered indirect cost means the difference between the amount awarded and the amount which could have been awarded under the Tribe's approved negotiated indirect cost rate.

Third party in-kind contributions

Third party in-kind contributions means the value of property or services which benefit a federally assisted project and which are contributed by non-federal third parties without charge to the grantee. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefitting and specifically identifiable to the grant work plan. In-kind contributions from third parties are subject to the following requirements regarding the Tribes supporting records:

- 1) Donated services shall be documented and, to the extent feasible, supported by the same methods used by the Tribe for its own employees.

- 2) The basis for determining the valuation for personal service, material, equipment, buildings and land shall be documented.

Donated services

- 1) Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing/matching if the service is an integral and necessary part of the approved grant work plan. Rates for volunteer services shall be consistent with rates paid for similar work in the Tribal organization, or shall be consistent with rates paid for similar work in the labor market in which the Tribal organization competes for the services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included.
- 2) When an employer other than the Tribe receiving the grant furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.

Donated supplies, property, and equipment

- 1) Donated supplies may include such items as expendable equipment, office supplies or laboratory supplies. Value assessed to donated supplies shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.
- 2) The value of donated property and equipment shall be determined in accordance with the usual accounting policies of a Tribe, with the following qualifications:
 - a) The value of donated land and buildings shall not exceed its fair market value at the time of donation as established by an independent appraiser and certified by a responsible Tribal official
 - b) The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation
 - c) The value of loaned equipment shall not exceed its fair rental value
 - d) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately owned building in the same

locality.

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